

KAMALA D. HARRIS  
Attorney General of California  
SALLY MAGNAMI  
Senior Deputy Attorney General  
OLIVIA W. KARLIN  
Deputy Attorney General  
State Bar No. 150432  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-0473  
Fax: (213) 897-2802  
E-mail: Olivia.Karlin@doj.ca.gov

*Attorneys for Plaintiff*

PEOPLE OF THE STATE OF CALIFORNIA,  
ex rel., CALIFORNIA DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

**PEOPLE OF THE STATE OF  
CALIFORNIA, ex rel., CALIFORNIA  
DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL,**

Plaintiff,

v.

**ROOKE CORP., a California  
Corporation, dba Aviation Equipment  
Inc.; AVIATION EQUIPMENT  
STRUCTURES, INC., a California  
Corporation, ~~DOES 1 to 20,~~**

Defendants.

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

MAY 20 2011

ALAN CARLSON, Clerk of the Court

*N. Quach*  
BY N QUACH

Case No. 30-2008-00107995-CU-MC-CJC

**[PROPOSED] AMENDMENT TO FINAL  
JUDGMENT AND PERMANENT  
INJUNCTION PURSUANT TO  
STIPULATION; EXHIBIT**

(Code of Civil Procedure § 664.6)

Plaintiff the People of the State of California ex rel., the Department of Toxic Substances Control ("Plaintiff" or the "Department") and Defendant Rooke Corp., dba Aviation Equipment Inc., and Aviation Equipment Structures, Inc. ("Defendants") having consented to the entry of this Amendment to Final Judgment and Permanent Injunction Pursuant to Stipulation ("Amendment to Final Judgment") prior to the taking of any proof and without a trial or adjudication of any fact or law herein, and

1 The Court having considered the pleadings, which consist of the Complaint, the Final  
2 Judgment and Permanent Injunction Pursuant to Stipulation ("Final Judgment") from 2008, the  
3 parties' Stipulation for Entry of Amendment to Final Judgment and Permanent Injunction, and the  
4 Proposed Amendment to Final Judgment; and good cause appearing therefore,

5  
6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:**

7  
8 **JURISDICTION AND VENUE**

9 1. Jurisdiction exists over this matter pursuant to Health & Safety Code sections 25181,  
10 25189, and 25189.2 and pursuant to the Final Judgment and Permanent Injunction Pursuant to  
11 Stipulation. Venue is proper pursuant to Health & Safety Code section 25183.

12 **APPLICABILITY**

13 2. The provisions of the Amendment to the Final Judgment, and the underlying  
14 Stipulation for Entry of Amendment to Final Judgment and Permanent Injunction (which is  
15 attached hereto as Exhibit 1 and incorporated by reference), shall apply to and be binding on  
16 Defendants, their subsidiaries and divisions, their parent companies, their officers and directors,  
17 their successors and assignees, and all persons, partners, corporations and successors thereto, or  
18 other entities, acting by, through, under, or on behalf of Defendants, and upon Plaintiff and any  
19 successor agency of Plaintiff that may have responsibility for and jurisdiction over the subject  
20 matter of this Final Judgment. The provisions of the Amendment to the Final Judgment, and the  
21 underlying Stipulation for Entry of Amendment to Final Judgment and Permanent Injunction  
22 shall not apply to and be binding on William Rooke, in his capacity as an individual with the  
23 exception of injunctive provision 5 of this Amendment to the Final Judgment, and paragraph 10  
24 of the Stipulation, which shall apply to William Rooke in his capacity as an individual. This  
25 Amendment to Final Judgment shall in no way impair the force or effect of, or change the  
26 Department's right(s) to enforce the original Final Judgment, entered June 17, 2008, in this  
27 matter. The Amendment to Final Judgment is in addition to the Final Judgment.

28 //

## INJUNCTION

3. The Enjoined Parties are Defendants, their subsidiaries and divisions, their parent companies, their officers and directors, their successors and assignees, and all persons, partners, corporations and successors thereto, or other entities, acting by, through, under, or on behalf of Defendants pursuant to Health and Safety Code sections 25181 and 25184. The Enjoined Parties shall comply with the injunctive provisions, as set forth below.

4. Defendants have declared their intent to cease operations of Rooke Corporation and Aviation Equipment Structures by mid-2011, and therefore will no longer conduct business activities relating to aviation equipment manufacturing, refurbishing, or repair. Such activities have involved the management and/or handling of hazardous waste. However, should either Rooke Corporation or Aviation Equipment Structures conduct or resume hazardous waste operations, each shall comply with all of the injunctive provisions set forth below.

(a) Properly dispose of containers of DOO7 chromium paint waste as RCRA hazardous waste, as required by California Code of Regulations, tit. 22 § 66261.100(b), and segregate empty paint containers that are not RCRA waste.

(b) Within six months of entry of this Amendment to Final Judgment, Defendants shall submit documentation from the California Compliance School that all facility personnel with hazardous waste responsibilities have passed all the tests for the Hazardous Waste Generator Training, Modules I, II, III and IV (Modules 1-IV). Defendants shall arrange for all facility personnel with hazardous waste responsibilities to take these tests within three months of entry of this Amendment to Final Judgment. Any employee failing to pass any single test shall attend the California Compliance School, and submit to the Department a certificate verifying successful completion for Modules I-IV prior to handling hazardous waste, within six months of entry of this Amendment to Judgment. Effective six months from entry of this Amendment to Final Judgment, any employee who has not successfully completed all tests for all four modules shall be prohibited from any hazardous waste responsibilities without first passing all four tests.

5. (a) During the period of time beginning on the effective date of this Amendment to Final Judgment and continuing uninterrupted thereafter for five years, William Rooke agrees that

1 he will not hold a position in which he would have the responsibility to control, oversee, or direct  
2 any "hazardous waste management," as defined in Health and Safety Code section 25117.2.  
3 Notwithstanding the foregoing, this Amendment to Final Judgment shall not be interpreted to  
4 prohibit William Rooke from being employed for wages by a facility that generates hazardous  
5 waste, provided that his job duties do not include the responsibility to control, oversee, or direct  
6 "hazardous waste management," as defined in Health and Safety Code section 25117.2, at that  
7 facility. The restrictions contained in this paragraph do not apply to any work conducted by  
8 William Rooke in compliance with the injunctive provision of the Amendment to Final Judgment  
9 or the Final Judgment.

10 (b) During the period of time beginning on the effective date of this Amendment to  
11 Final Judgment and continuing uninterrupted thereafter for five years, the enjoined parties agree  
12 not to employ William Kirshenbaum in a position in which he would have the responsibility to  
13 control, oversee, or direct any "hazardous waste management," as defined in Health and Safety  
14 Code section 25117.2. Additionally, the enjoined parties agree not to employ William  
15 Kirshenbaum in any position in which he would have the responsibility to control, oversee or  
16 direct any "hazardous waste management," as defined in Health and Safety Code section 25117.2.

#### 17 **MONETARY SETTLEMENT REQUIREMENTS**

18 6. (a) Defendants agree that the Final Judgment would allow and that a Court may  
19 issue a judgment for \$114,000 in civil penalties plus the interest applicable to civil judgments on  
20 the first \$110,000 of that amount (the unpaid balance of the Final Judgment) as a result of  
21 Defendants' violations of the Final Judgment.

22 (b) According to the Final Judgment, the \$170,000 penalty would be satisfied if  
23 Defendants abided by the terms of the Final Judgment and paid \$75,000 to the Department in  
24 installment payments. Defendants have paid \$60,000 of the \$75,000. Defendants have failed to  
25 abide by the monetary and injunctive provisions of the Final Judgment; therefore, the remainder  
26 of the \$170,000 plus interest is now due. As of May, 2011, the interest amounts to approximately  
27 \$15,587.

28 ///

1 (c) Additionally, Defendants agree that they also owe \$4000 in civil penalties as a  
2 result of Defendants' more recent violation of California Code of Regulations, tit. 22 §  
3 66261.100(b) for Defendants' failure to segregate empty paint containers that are non-RCRA  
4 waste.

5 (d) Defendants have represented in a confidential declaration of present financial  
6 status, and they also certify by signing below, that they do not have the financial resources to pay  
7 the full penalty owed in this matter. The confidential financial declaration shall not be a public  
8 document, but may be produced confidentially to an investigative agency or upon court order.  
9 Such disclosure does not make this declaration a public record. In reliance on Defendants'  
10 representations in the confidential declaration and William Rooke's certification below, the  
11 Department agrees that, provided Defendants fully comply with all of the injunctive provisions  
12 specified in the Final Judgment and in the Amendment to Final Judgment, and with the monetary  
13 requirements specified in paragraph 8, below of this Amendment to Final Judgment, the full civil  
14 penalty portion of the Final Judgment and Amendment to Final Judgment will be satisfied.

15 7. (a) Within 30 days of the entry of this Amendment to Final Judgment, Defendants  
16 shall pay the Department \$19,000.00.

17 (b) In the event Defendants fail to make the payment specified in 8(a) above, the  
18 full amount of civil penalties, \$114,000, plus the interest applicable to civil judgments on the first  
19 \$110,000 of that amount, is immediately due and payable to the Department.

20 8. (a) Any payment under the Amendment to Final Judgment shall be made by  
21 cashier's check, payable to the California Department of Toxic Substances Control, and mailed  
22 to:

23 Cashier  
24 Accounting Office, MS-21A  
25 Department of Toxic Substances Control  
26 P.O. Box 806  
27 Sacramento, CA 95812-0806.

28 The check(s) shall bear on their face the phrase "DTSC # HWCA 20061136."

///

///

1 (b) A photocopy (or PDF copy by e-mail) of all checks and payments made  
2 pursuant to the Amendment to Final Judgment shall be sent, at the same time, to:

3 Charles A. McLaughlin, Performance Manager  
4 State Oversight and Enforcement Branch  
5 Enforcement and Emergency Response Program  
6 Department of Toxic Substances Control  
7 8800 Cal Center Drive  
8 Sacramento, CA 95826-3200  
9 cmclaughlin@dtsc.ca.gov

7 Vivian Murai, Senior Staff Counsel  
8 Office of Legal Counsel, MS-23A  
9 Department of Toxic Substances Control  
10 1001 I Street  
11 P.O. Box 806  
12 Sacramento, CA 95812-0806  
13 vmurai@dtsc.ca.gov

11 and to

13 Olivia W. Karlin  
14 Deputy Attorney General  
15 Attorney General's Office  
16 300 South Spring Street  
17 Los Angeles, CA 90013

17 (c) If Defendants fail to make payment as provided above, Defendants are liable  
18 for post judgment interest as provided in Code of Civil Procedure 685.010 (which are 10 %) and  
19 are obligated to pay all costs incurred by DTSC in enforcing the judgment in this matter,  
20 including, but not limited to attorney's fees.

## 21 OTHER PROVISIONS

### 22 9. Retention of Jurisdiction.

23 The Court shall retain jurisdiction of this matter to implement the Final Judgment and  
24 Amendment to Final Judgment.

### 25 10. Enforcement of Judgment.

26 Any party may, by motion or order to show cause before the Superior Court of  
27 Orange, enforce the terms and conditions contained in this Amendment to Final Judgment and/or  
28 Final Judgment. Where a failure to comply with this Amendment to Final Judgment and/or Final

1 Judgment constitutes future violations of the HWCL, or other laws independent of this Final  
2 Judgment and/or alleged in the Complaint, Plaintiff is not limited to enforcement of this  
3 Amendment to Final Judgment and/or Final Judgment, but may seek in another action, subject to  
4 satisfaction of any procedural requirements, including notice requirements, whatever fines, costs,  
5 fees, penalties, or remedies are provided by law for failure to comply with the HWCL or other  
6 laws.

7 **11. Modification.**

8 This Amendment to Final Judgment and Final Judgment may be modified by express  
9 written agreement of the parties, with the approval of the Court, or by an order of this Court in  
10 accordance with law.

11 **12. Entry of Judgment.**

12 The Clerk of the Court is ordered to enter this Amendment to Final Judgment  
13 immediately, and to provide the parties with notice of entry of judgment within ten (10) days of  
14 the entry of this Amendment to Final Judgment.

15  
16 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

17 Dated: 5/20/2011

18 **STEVEN L. PERK**  
19 Judge of the Superior Court  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 EXHIBIT

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



COPY

EDMUND G. BROWN JR., Attorney General  
of the State of California  
JANET GAARD,  
Chief Assistant Attorney General  
KEN ALEX,  
Senior Assistant Attorney General  
DONALD ROBINSON  
Supervising Deputy Attorney General  
JAMES R. POTTER, State Bar No. 166992  
OLIVIA W. KARLIN, State Bar No. 150432  
Deputy Attorneys General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-0473  
Fax: (213) 897-2802

Attorneys for Plaintiff PEOPLE OF THE STATE OF  
CALIFORNIA, ex rel. MAUREEN GORSEN,  
DIRECTOR, CALIFORNIA DEPARTMENT OF  
TOXIC SUBSTANCES CONTROL

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE**

30-2008

PEOPLE OF THE STATE OF CALIFORNIA, ex  
rel. MAUREEN GORSEN, Director, CALIFORNIA  
DEPARTMENT OF TOXIC SUBSTANCES  
CONTROL,

Plaintiff,

v.

ROOKE CORP., a California Corporation, dba  
Aviation Equipment Inc.; AVIATION  
EQUIPMENT STRUCTURES, INC., a California  
Corporation, DOES 1 to 20,

Defendants.

Case No.: 00107995

STIPULATION FOR  
~~SETTLEMENT AND ENTRY~~  
OF JUDGMENT AND  
PERMANENT INJUNCTION

JUDGE STEVEN L. PERK  
DEPT. C32

Plaintiff, People of the State of California, ex rel. Maureen Gorsen, Director, Department  
of Toxic Substances Control ("the Department"). and Defendants Rooke Corp., a California  
Corporation, dba Aviation Equipment, Inc.. and Aviation Equipment Structures, Inc.

10121329

1

STIPULATION FOR SETTLEMENT AND ENTRY OF JUDGMENT AND PERMANENT  
INJUNCTION

FILED IN DEPT C-32 ON 6/13/08 AT 10:07 AM

(collectively "Aviation"), enter into this Stipulation for Settlement and Entry of Judgment and Permanent Injunction ("Stipulation") and stipulate as follows:

**1. THE COMPLAINT**

Concurrently with this Stipulation, the Department filed a Complaint for Civil Penalties and Injunctive Relief pursuant to the California Hazardous Waste Control Law, Health and Safety Code section 25100 et seq. and its associated regulations ("HWCL") against Aviation as an owner, operator and generator of the facility at 1571 Macarthur Blvd., Costa Mesa, California (the "Facility").

**2. JURISDICTION AND VENUE**

The Department and Aviation agree this Court has subject matter jurisdiction over the matters alleged in the Complaint and personal jurisdiction over Aviation. Venue is proper pursuant to Health & Safety Code § 25183.

**3. APPLICABILITY**

The provisions of the Judgment and Permanent Injunction Pursuant to Stipulation ("Judgment") (which is attached hereto and incorporated by reference) and this underlying Stipulation shall apply to and be binding upon Aviation, its subsidiaries and divisions, its parent companies, its officers and directors, its successors and assignees, or other entities, acting by, through, under or on behalf of Aviation, and upon the Department and any successor agency of the Department that may have responsibility for and jurisdiction over the subject matter of this Judgment.

**4. ADMISSIONS AND ALLEGATIONS**

A. Aviation began taking steps to correct the violations alleged in the Complaint upon receipt of the Department's Summary of Violations. Prior to receiving notification that the Department would take judicial action against Aviation, Aviation invested, and continues to invest, significant funds to comply with the HWCL.

B. Aviation admits the violations alleged in the Complaint but disagrees with some of the allegations, and comments on others, as set forth below. By signing below, Aviation represents as follows:

1                   (1) Paragraph 24 of the Complaint alleges: "Prior thereto, on or about January  
2 11, 2001, Aviation Equipment Structures entered an administrative Stipulation and Order  
3 resolving an HWCL violation at the Facility with the Department. The Stipulation and Order  
4 acknowledged Aviation Equipment Structures' submission of a Phase I environmental  
5 assessment to correct the cited violation and required it to pay \$4,000 in administrative costs.  
6 The Order named Aviation Equipment Structures, Inc. as a respondent." AVIATION'S  
7 RESPONSE: This allegation is incorrect and should be deleted in its entirety. This was not a  
8 violation and that stipulation states that the matter is being disputed but is being settled so that  
9 each party can avoid the expense of litigation. The matter involved a permit issued to a previous  
10 company operating at that location and Aviation's operations did not require such a permit.

12                   (2) Paragraph 28 of the Complaint alleges: "The Department observed the  
13 Hazardous Waste Filter Blankets in three locations: (1) at least a dozen blankets were stored in  
14 cardboard boxes outside of and behind the Facility, loosely covered by an unsecured tarp; (2)  
15 two or three blankets were stacked on top of each other, with the bottom blanket in direct contact  
16 with the outside pavement, and between two cardboard boxes; and (3) two blankets were resting  
17 in a container outside the Facility near a paint spray booth. Health and Safety Code sections  
18 25189.2(c) and 25201 prohibit the unauthorized disposal of hazardous waste as defined by  
19 California Code of Regulations, title 22, § 66260.10." AVIATION'S RESPONSE: The first  
20 sentence of the allegation should read: "The Department observed the Filter Blankets in three  
21 locations: (1) stored in cardboard boxes provided by Aviation's licensed hazardous waste  
22 transporter outside of and behind the Facility, these cardboard boxes were placed on pallets and  
23 covered by a tarp (the tarp was secured by large wood studs); (2) two blankets were resting  
24 directly on the pallet adjacent to the cardboard boxes; (3) two blankets were resting in a  
25 container outside the Facility near a paint spray booth." As the Department alleges in the  
26  
27  
28

1 Complaint, many inspections of the facility have taken place over the years. No inspector has  
2 ever said that either the method or place of the storage of the Filter Blankets in the cardboard  
3 boxes fails to comply with applicable law.

4 (3) Paragraph 30 of the Complaint alleges: "The Facility's mismanagement  
5 of the Hazardous Waste Filter Blankets allowed the wind dispersal of hazardous waste during the  
6 March 14, 2006 inspection which potentially may have emitted hazardous waste into the air or  
7 otherwise into the environment and may have caused individuals to be exposed to hazardous  
8 waste." AVIATION'S RESPONSE: Aviation denies this allegation.

10 (4) Paragraph 36 of the Complaint alleges: "As described in paragraph 28  
11 above, the Defendants held Hazardous Waste Filter Blankets at the Facility in unmarked, open  
12 containers in violation of the above regulations." AVIATION'S RESPONSE: This allegation  
13 should state that some of the blankets were in unmarked, open containers.

15 (5) Paragraph 37 of the Complaint alleges: "The Defendants' management  
16 of the Hazardous Waste Filter Blankets at the Facility violated numerous provisions of the  
17 HWCL, including without limitation California Code of Regulations, title 22, §§ 66262.34(f)  
18 and 66265.173. Violation of each provision is a separate violation, subject to penalty under  
19 Health and Safety code § 25189 or § 25189.2." AVIATION'S RESPONSE: This allegation  
20 should state that some of the blankets were mismanaged.

22 C. Plaintiffs allegations are based on DTSC Senior Hazardous Substances  
23 Scientist Rita Hypnarowski's observations, during her joint inspection with Orange County  
24 Health Care Agency staff on March 14, 2006, as memorialized in her report dated March 24,  
25 2006, and further information learned prior to resolution of this matter.

27 **5. WAIVER OF HEARING AND TRIAL AND ENTRY OF JUDGMENT**

28 By signing and entering into this Stipulation, Aviation waives its right to a hearing and/or

1 trial under the HWCL on the alleged violations in the Complaint. Further, Aviation and the  
2 Department request this Court to enter judgment in the form and substance set forth in the  
3 attached Judgment and Permanent Injunction Pursuant to Stipulation.

4 **6. INJUNCTION**

5 Aviation corrected the violations alleged in the Complaint on or about, but no later than,  
6 June 19, 2006. The Enjoined Parties, which include Aviation, its subsidiaries and divisions, its  
7 officers and directors, its agents, employees, contractors, consultants, successors, assignees, and  
8 representatives, and all persons, partners, corporations and successors thereto, or other entities,  
9 acting by, through, under, or on behalf of Aviation, pursuant to Health and Safety Code sections  
10 25181 and 25184, shall do the following:

11 A. *Training.* Aviation shall ensure that all facility personnel, as defined in  
12 California Code of Regulations, title 22, section 66260.10, receive annual training and review of  
13 requirements specified by California Code of Regulations, title 22, section 66265.16. In  
14 addition, within six months of entry of this Judgment Aviation shall submit documentation from  
15 the California Compliance School that all facility personnel with hazardous waste  
16 responsibilities have passed all the tests for the Hazardous Waste Generator Training, Modules I,  
17 II, III and IV (Modules 1-IV). Aviation shall arrange for all of Aviation's facility personnel with  
18 hazardous waste responsibilities to take these tests within three months of entry of this Judgment.  
19 Any employee failing to pass any single test shall attend the California Compliance School, and  
20 submit to DTSC a certificate verifying successful completion for Modules I-IV prior to handling  
21 hazardous waste, within six months of entry of this Judgment. Effective six months from entry  
22 of this Judgment, any employee who has not successfully completed all tests for all four modules  
23 shall be prohibited from any hazardous waste responsibilities without first passing all four tests.

24 B. *Sampling of Hazardous Waste Filter Blankets.* Aviation will handle all  
25 Hazardous Waste Filter Blankets as hazardous waste. Prior to handling any of these blankets in  
26 a manner other than as hazardous waste, Aviation shall obtain a hazardous waste analysis for one  
27 or more Hazardous Waste Filter Blankets and update its hazardous waste determination  
28

1 appropriately to ensure proper waste classification and handling. The sampling shall be  
2 conducted in accordance with *California Code of Regulations*, title 22, section 66261.24, and  
3 Title 22, California Code of Regulations, Division 4.5, chapter 11, Appendix I and Appendix II.  
4 At the time of the sampling, if Aviation continues to use chromium-containing paint, at least one  
5 of the Hazardous Waste Filter Blankets analyzed shall have been used during chromium-  
6 containing paint filtration until such time that the Hazardous Waste Filter Blanket reached  
7 saturation and/or required replacement.

8 C. *Log.* Aviation shall keep a log of Hazardous Waste Filter Blankets it  
9 removes from its paint spray booth used to apply chromium-containing paint. Such log shall  
10 indicate the day the blanket was removed and whether a chromium-containing paint was used  
11 while the blanket was in place. If a chromium-containing paint was used while the blanket was  
12 in place, the log shall also identify the hazardous waste generator storage area to which Aviation  
13 took the Hazardous Waste Filter Blankets, as well as the manifest number for the shipment of the  
14 waste offsite, and the date of that shipment.

15 D. *Container Storage Areas.* Aviation shall continue to designate one or  
16 more areas within its Facility as hazardous waste storage areas in compliance with California  
17 Code of Regulations, title 22, § 66264.31. The boundaries of these storage areas shall be clearly  
18 delineated, in compliance with California Code of Regulations, title 22, § 66265.35. Aviation  
19 shall not place or store any hazardous waste at the Facility anywhere outside these storage areas,  
20 as stated in Aviation's contingency plan, and in compliance with California Code of Regulations,  
21 title 22, § 66265.51 (b).

22 E. *Inspections.* Aviation shall allow the Department or local Certified  
23 Unified Program Agency to inspect the Facility at any time during normal business hours  
24 without a warrant under Health & Safety Code § 25185 subd. (a). This requirement shall be in  
25 effect for a period of three years from the date of entry of this Judgment.

## 26 7. MONETARY SETTLEMENT REQUIREMENTS

27 A. Subject to the terms of this Stipulation, Aviation agrees that the Court may  
28 issue judgment for a civil penalty in the amount of one hundred seventy thousand dollars

1 (\$170,000), which amount is the full amount of civil penalties in this matter. However, Aviation  
2 has represented and provided supporting evidence that Aviation does not have the financial  
3 resources to pay the full penalty amount in this matter. In reliance on Aviation's representations  
4 and certifications, the Department agrees that, provided that Aviation fully complies with all of  
5 the injunctive provisions specified in Section 6 above and makes all payments specified in  
6 Section 7(B) below of this Stipulation in a timely manner, the full civil penalty portion of the  
7 Judgment will be satisfied, according to the terms of Section 8 below.

8           B.       Aviation shall pay the Department the sum of seventy-five thousand  
9 dollars (\$75,000) in civil penalties in settlement of the Department's claims as follows: (1) thirty  
10 thousand dollars (\$30,000) within thirty (30) days of entry of this Judgment; (2) fifteen thousand  
11 dollars (\$15,000) on or before January 2, 2009; (3) fifteen thousand dollars (\$15,000) on or  
12 before January 4, 2010; (4) the remaining balance of fifteen thousand dollars (\$15,000) on or  
13 before January 3, 2011. If any payment under this Section 7(B) from Aviation is not paid when  
14 due, then Aviation shall pay interest on such overdue amount at the interest rate applicable to  
15 civil judgments. If any payment is not received by the Department within ninety (90) days of the  
16 due date for such payment, the Department may give notice of default to Aviation as provided in  
17 Section 8(B) below.

18           C.       Each of Aviation's payments stated in Section 7(B) above shall be made  
19 by cashier's check payable to the California Department of Toxic Substances Control, shall bear  
20 the following notation: "Aviation Equipment, HWCA 20061136" and shall be sent to:

21           Cashier Accounting Office  
22           Department of Toxic Substances Control 1001 I Street, MS-21A  
23           P.O. Box 806  
24           Sacramento. CA 95812-0806

25           An electronic (i.e., Adobe PDF) copy or paper photocopy of all checks and payments made  
26 pursuant to the Judgment shall be sent, at the same time, to:

27           Charles A. McLaughlin, Chief  
28           State Oversight and Enforcement Branch  
29           Department of Toxic Substances Control  
30           8800 Cal Center Drive  
31           Sacramento, California 95826-3200

1 C'McLaughlin@dtsc.ca.gov

2 Vivian Murai, Senior Staff Counsel  
3 Office of Legal Counsel  
4 Department of Toxic Substances Control  
5 1001 I Street, MS-23A  
6 P.O Box 806  
7 Sacramento, California 95812-0806  
8 VMurai@dtsc.ca.gov

9 and to

10 Olivia Karlin  
11 Deputy Attorney General California Department of Justice  
12 300 South Spring Street  
13 Los Angeles, CA 90013  
14 olivia.karlin@doj.ca.gov

15 **8. SATISFACTION OF CIVIL PENALTY PAYMENT REQUIREMENT**

16 A. In the event Aviation complies with the terms contained in the parties'  
17 Stipulation and the terms of the Judgment attached hereto, including, but not limited to making  
18 the payments as required by Section 7(B) of this Stipulation, the full civil penalty shall be  
19 satisfied. Aviation shall not be relieved of any other obligation arising under the parties'  
20 Stipulation or this Judgment. The payment requirements of this section shall expire three years  
21 from the date of entry of this Stipulation.

22 B. In the event Aviation violates any provision of the HWCL (with the  
23 exception of a minor violation of the HWCL, as defined by California Code of Regulations, title  
24 22 section 66272.66, Health and Safety Code section 25117.6, and Health and Safety Code  
25 section 25187.8(g)), or fails to make a payment as required by the parties' Stipulation and  
26 Judgment, the full amount of civil penalties, one hundred seventy thousand dollars (\$170,000),  
27 plus accrued and unpaid interest on unpaid installments as provided in Section 7(B) of this  
28 Stipulation, minus any payments already made to the Department pursuant to this Judgment shall  
be immediately due and payable to the Department. If the Department determines that Aviation  
has defaulted under the terms of the parties' Stipulation or the terms of this Judgment, the  
Department will provide Aviation with written notice of the default. Such written notice  
constitutes Aviation's notice of its reasonable opportunity to cure the default on the terms as



1 required by the Department. If Aviation fails to cure the default as required within thirty days of  
2 notice, the Department may proceed to pursue all rights and remedies to enforce this Judgment  
3 against Aviation, in addition to any applicable penalties for any new violation.

4 C. For purposes of this section, Aviation shall not have violated the HWCL  
5 or the injunctive provisions of Section 6 above unless one of the following occurs: Aviation  
6 notifies the Department in writing that it will not contest an alleged violation of one of the  
7 injunctive provisions; a court of law issues a judgment finding a violation of one of the  
8 injunctive provisions; or either the DTSC Director or an administrative law judge issues a  
9 decision finding a violation of one of the injunctive provisions.

## 10 9. ENFORCEMENT OF THIS STIPULATION AND JUDGMENT

11 A. Aviation shall promptly, and no later than twenty-four hours after  
12 discovery, notify the Department in writing in the event of any significant noncompliance with  
13 the terms of this Stipulation. For purposes of this Stipulation and Judgment, failure to comply  
14 with this paragraph shall not be deemed an independent violation of this Stipulation.

15 B. The Department will notify Aviation at least two weeks before  
16 commencing any action to enforce the injunctive provisions of the Stipulation. Upon a request  
17 by Aviation within that two week period, the Department will make appropriate staff persons  
18 available to meet with representatives of Aviation within a reasonable time of receiving  
19 Aviation's request. Provided the meeting takes place within a reasonable time (unless the failure  
20 to meet is due solely to the Department's delay), the Department will not commence the  
21 enforcement action until the meeting has taken place. For the purposes of this paragraph, "action  
22 to enforce the injunctive provisions of the Stipulation" is limited to issuance of an enforcement  
23 order for penalties pursuant to Health and Safety Code § 25187, the filing of a civil complaint, or  
24 the commencement of a contempt action. This paragraph shall not prevent the Department or  
25 any government official from taking any action the Department or official deems necessary to  
26 prevent an immediate hazard to public health or the environment. This paragraph shall not  
27 create a right of action against the Department or any government official, nor create any defense  
28 to any enforcement action brought by the Department or any other government agency.

1 C. Failure to comply with the terms of this Stipulation may also subject  
2 Aviation to costs, penalties, and/or punitive damages for any costs incurred by the Department or  
3 other government agencies as a result of such failure, including penalties provided by Health and  
4 Safety Code § 25188. Penalties due for violation of this Stipulation because of a new violation  
5 of the HWCL are in addition to, and not in lieu of, any new penalty assessed for that new  
6 violation.

7 D. The Department's failure to seek enforcement of any provision of this  
8 Stipulation shall not be deemed a waiver of any rights by the Department, or in any way affect  
9 the validity of this Stipulation or the Judgment as to Aviation in this matter.

10 E. Nothing in this Stipulation or Judgment waives any right or authority the  
11 Department has under law to enforce the provisions of the Department has to enforce the  
12 Stipulation, the Judgment, the HWCL, its regulations, or the terms of any license or permit given  
13 thereunder.

14 **10. NOTICE**

15 A. Unless otherwise specified in this Stipulation, all submissions and notices  
16 required by this Stipulation shall be sent as follows:

17 For the Department:

18 Charles A. McLaughlin, Chief  
19 State Oversight and Enforcement Branch  
20 Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

21 Vivian Murai, Senior Staff Counsel  
22 Office of Legal Counsel  
23 Department of Toxic Substances Control  
1001 I Street, MS-23A  
24 P.O. Box 806  
Sacramento, California 95812-0806

25 For Aviation:

26 William Rooke, President Rooke Corp. and  
27 Aviation Equipment Structures, Inc.  
7230 Fulton Avenue  
28 North Hollywood, CA 91605

1 Walter Lipsman, Esq.  
2 Morris Polich and Purdy  
3 1055 W. 7th St., Suite 2400  
4 Los Angeles, CA 90017

5 B. All approvals and decisions of the Department regarding any matter  
6 requiring approval or decision under the terms of this Stipulation shall be communicated to  
7 Aviation in writing by Charles A. McLaughlin or his successor or designee. No advice,  
8 guidance, suggestions, or comments by employees or officials of the Department regarding  
9 submittals or notices shall be construed to relieve Aviation of its obligations under this  
10 Stipulation, except as specified herein.

11 C. The Department will timely respond to all submissions required by this  
12 Stipulation. This paragraph shall not create a right of action against the Department or any  
13 government official, nor create any defense to any enforcement action brought by the  
14 Department or any other government agency.

15 **11. DEPARTMENT NOT LIABLE**

16 A. The Department shall not be liable for any injury or damage to persons or  
17 property resulting from acts or omissions by Aviation, its officers, employees, agents, or  
18 representatives in carrying out obligations pursuant to this Stipulation, nor shall the Department  
19 be held as a party to or guarantor of any contract entered into by Aviation, its employees, agents,  
20 or representatives in carrying out obligations required pursuant to this Stipulation.

21 B. Aviation releases the Department and the Office of the Attorney General,  
22 and their employees, representatives and agents from any and all liability, in their official or  
23 personal capacity, arising from or relating to this litigation or any inspection, enforcement or  
24 permitting activity, or other regulatory action occurring up to the date of the execution of this  
25 Stipulation. Aviation further covenants not to sue or assert any claims or causes of action against  
26 the Department or the Office of the Attorney General, or their officers, employees, agents, or  
27 representatives in their official or personal capacities arising from or relating to this litigation or  
28 any inspection, enforcement or permitting activity, or other regulatory action occurring up to the  
date of the execution of this Stipulation.

1           **12.    AUTHORITY TO ENTER STIPULATION**

2           Each signatory to this Stipulation certifies that he or she is fully authorized by the party  
3 he or she represents to enter into this Stipulation, to execute it on behalf of the party represented  
4 and legally to bind that party.

5           **13.    RETENTION OF JURISDICTION**

6           The Court shall retain jurisdiction to enforce the provisions of this Stipulation and  
7 Judgment.

8           **14.    ACCESS**

9           Nothing in this Judgment is intended to limit in any way the right of entry or inspection  
10 that the Department or any other agency may otherwise have by operation of any law.

11          **15.    SAMPLING, DATA AND DOCUMENT AVAILABILITY**

12          On reasonable notice, Aviation shall permit the Department or its authorized  
13 representatives to inspect and copy all sampling, testing, monitoring, and other data generated by  
14 Aviation or on Aviation's behalf in any way pertaining to the Department's regulatory authority  
15 under the Health & Safety Code. Retention times for the above records, and extensions thereof,  
16 shall be as specified in the applicable statutes and regulations.

17          **16.    COUNTERPARTS**

18          This Stipulation may be executed in any number of counterparts, all of which taken  
19 together shall constitute an integrated document.

20          **17.    EFFECTIVE DATE**

21          The Effective Date of this Stipulation is the date the Judgment is entered by the Court.

22          **18.    ENTIRE AGREEMENT**

23          This Stipulation sets forth the entire agreement between the Department and Aviation  
24 regarding the subject matter hereof. This Stipulation may only be amended by a written  
25 agreement signed on behalf of the Department and Aviation.

26          **19.    ENTRY OF JUDGMENT PURSUANT TO STIPULATION**

27          The parties further stipulate that upon approval of this Stipulation by the Court, the Court  
28 shall enter the Judgment in this matter in the form set forth in the attached Judgment, herein.

1 IT IS SO STIPULATED:

2 For the Department:

3  
4 Dated June 11, 2008

5 By: Charles A. McLaughlin  
6 Charles A. McLaughlin, Chief  
7 State Oversight and Enforcement Branch  
8 Department of Toxic Substances Control

9 For Aviation:

10 ROOKE CORP. dba Aviation Equipment, Inc.

11 Dated June 9<sup>TH</sup>, 2008

12 By: William S. Rooke  
13 William Rooke, President

14 AVIATION EQUIPMENT STRUCTURES, INC.

15 Dated June 10<sup>TH</sup>, 2008

16 By: William Rooke  
17 William Rooke, President  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 APPROVED AS TO FORM:  
2  
3  
4

5 \_\_\_\_\_  
6 EDMUND G. BROWN, JR.  
7 Attorney General of the State of California  
8 JANET GAARD,  
9 Chief Assistant Attorney General  
10 KEN ALEX,  
11 Senior Assistant Attorney General  
12 DONALD ROBINSON,  
13 Supervising Deputy Attorney General

14 Dated June 2, 2008

15 By: \_\_\_\_\_

*Olivia W. Karlin*

16 OLIVIA W. KARLIN  
17 Attorneys for Plaintiffs

18 MORRIS POLICH & PURDY LLP

19  
20 Dated June 9, 2008

21 By: \_\_\_\_\_

*Walter J. Lipsman*

22 WALTER J. LIPSMAN  
23 Attorneys for Aviation  
24  
25  
26  
27  
28

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JANET GAARD,  
3 Chief Assistant Attorney General  
KEN ALEX,  
4 Senior Assistant Attorney General  
DONALD ROBINSON  
5 Supervising Deputy Attorney General  
JAMES R. POTTER, State Bar No. 166992  
6 OLIVIA W. KARLIN, State Bar No. 150432  
7 Deputy Attorneys General  
300 South Spring Street, Suite 1702  
8 Los Angeles, CA 90013  
Telephone: (213) 897-0473  
9 Fax: (213) 897-2802

EXEMPT FROM FILING FEES  
GOVERNMENT CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE  
CLERK OF COURT  
ALAN POTTER, Clerk of the Court  
BY Q. FILING

10 Attorneys for Plaintiff PEOPLE OF THE STATE OF  
11 CALIFORNIA, ex rel. MAUREEN GORSEN,  
12 DIRECTOR, CALIFORNIA DEPARTMENT OF  
TOXIC SUBSTANCES CONTROL

13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **FOR THE COUNTY OF ORANGE**  
16

17 **PEOPLE OF THE STATE OF CALIFORNIA, ex**  
18 **rel. MAUREEN GORSEN, Director,**  
19 **CALIFORNIA DEPARTMENT OF TOXIC**  
**SUBSTANCES CONTROL,**

20 Plaintiff,

21 v.

22 **ROOKE CORP., a California Corporation, dba**  
23 **Aviation Equipment Inc.; AVIATION**  
24 **EQUIPMENT STRUCTURES, INC., a California**  
**Corporation, DOES 1 to 20,**

25 Defendants.

Case No.:

**STIPULATION FOR  
SETTLEMENT  
AND  
ENTRY OF JUDGMENT AND  
PERMANENT INJUNCTION**

26 Plaintiff, People of the State of California presented and filed with the Court a written  
27 Stipulation for Settlement and Entry of Judgment and Permanent Injunction (the "Stipulation,"  
28 which is attached hereto and incorporated by reference) entered by Plaintiff and Defendants

1 Rooke Corporation, a California Corporation, dba Aviation Equipment Inc., Aviation Equipment  
2 Structures, Inc. (collectively, "Aviation.") The Court, having reviewed the Stipulation and the  
3 other pleadings and records on file, finds that jurisdiction exists over this matter pursuant to  
4 Health and Safety Code §§ 25181 and 25189 and that good cause exists for entry of this  
5 Judgment.

6  
7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

8 1. JUDGMENT is awarded in favor of Plaintiff and against Aviation on all causes of  
9 action, and a civil penalty in the amount of one hundred seventy thousand dollars (\$170,000),  
10 which amount is the full amount of civil penalties in this matter. However, Aviation has  
11 represented and provided supporting evidence that Aviation does not have the financial resources  
12 to pay the full penalty amount in this matter, and has corrected the violations alleged in the  
13 Complaint on or about, but no later than, June 19, 2006. Aviation represents that since receipt of  
14 the Department's Summary of Violations, Aviation has also invested, and continues to invest,  
15 significant funds to comply with the HWCL. In reliance on Aviation's representations and  
16 certifications, the Department agrees that, provided that Aviation fully complies with all of the  
17 injunctive provisions set forth below and makes all payments specified in the next paragraph of  
18 this Judgment in a timely manner, the full civil penalty portion of the Judgment will be satisfied.

19 Aviation shall pay the Aviation shall pay the Department the sum of seventy-five  
20 thousand dollars (\$75,000) in civil penalties in settlement of the Department's claims as follows:  
21 (1) thirty thousand dollars (\$30,000) within thirty (30) days of entry of this Judgment; (2) fifteen  
22 thousand dollars (\$15,000) on or before January 2, 2009; (3) fifteen thousand dollars (\$15,000)  
23 on or before January 4, 2010; (4) the remaining balance of fifteen thousand dollars (\$15,000) on  
24 or before January 3, 2011

25 **IT IS FURTHER ORDERED** that Aviation shall comply with the following provisions:

26 A. *Training.* Aviation shall ensure that all facility personnel, as defined in  
27 California Code of Regulations, title 22, section 66260.10, receive annual training and review of  
28 requirements specified by California Code of Regulations, title 22, section 66265.16. In



1 addition, within six months of entry of this Judgment Aviation shall submit documentation from  
2 the California Compliance School that all facility personnel with hazardous waste  
3 responsibilities have passed all the tests for the Hazardous Waste Generator Training, Modules I,  
4 II, III and IV (Modules 1-IV). Aviation shall arrange for all of Aviation's facility personnel with  
5 hazardous waste responsibilities to take these tests within three months of entry of this Judgment.  
6 Any employee failing to pass any single test shall attend the California Compliance School, and  
7 submit to DTSC a certificate verifying successful completion for Modules I-IV prior to handling  
8 hazardous waste, within six months of entry of this Judgment. Effective six months from entry  
9 of this Judgment, any employee who has not successfully completed all tests for all four modules  
10 shall be prohibited from any hazardous waste responsibilities without first passing all four tests.

11           B.     *Sampling of Hazardous Waste Filter Blankets.* Aviation will handle all  
12 Hazardous Waste Filter Blankets as hazardous waste. Prior to handling any of these blankets in  
13 a manner other than as hazardous waste, Aviation shall obtain a hazardous waste analysis for one  
14 or more Hazardous Waste Filter Blankets and update its hazardous waste determination  
15 appropriately to ensure proper waste classification and handling. The sampling shall be  
16 conducted in accordance with *California Code of Regulations*, title 22, section 66261.24, and  
17 Title 22, California Code of Regulations, Division 4.5, chapter 11, Appendix I and Appendix II.  
18 At the time of the sampling, if Aviation continues to use chromium-containing paint, at least one  
19 of the Hazardous Waste Filter Blankets analyzed shall have been used during chromium-  
20 containing paint filtration until such time that the Hazardous Waste Filter Blanket reached  
21 saturation and/or required replacement.

22           C.     *Log.* Aviation shall keep a log of Hazardous Waste Filter Blankets it  
23 removes from its paint spray booth used to apply chromium-containing paint. Such log shall  
24 indicate the day the blanket was removed and whether a chromium-containing paint was used  
25 while the blanket was in place. If a chromium-containing paint was used while the blanket was  
26 in place, the log shall also identify the hazardous waste generator storage area to which Aviation  
27 took the Hazardous Waste Filter Blankets, as well as the manifest number for the shipment of the  
28 waste offsite, and the date of that shipment.

1 D. *Container Storage Areas.* Aviation shall continue to designate one or  
2 more areas within its Facility as hazardous waste storage areas in compliance with California  
3 Code of Regulations, title 22, § 66264.31. The boundaries of these storage areas shall be clearly  
4 delineated, in compliance with California Code of Regulations, title 22, § 66265.35. Aviation  
5 shall not place or store any hazardous waste at the Facility anywhere outside these storage areas,  
6 as stated in Aviation's contingency plan, and in compliance with California Code of Regulations,  
7 title 22, § 66265 .51 (b).

8 E. *Inspections.* Aviation shall allow the Department or local Certified  
9 Unified Program Agency to inspect the Facility at any time during normal business hours  
10 without a warrant under Health & Safety Code § 25185 subd. (a). This requirement shall be in  
11 effect for a period of three years from the date of entry of this Judgment.

12 The clerk is directed to enter this Judgment immediately.

13 DATED: 6/17/08

14 **STEVEN L PERK**

15 HON.

16 JUDGE OF THE SUPERIOR COURT

17  
18  
19 Prepared by:

20  
21 EDMUND G. BROWN, JR. Attorney General  
22 of the State of California  
23 JANET GAARD,  
24 Chief Assistant Attorney General  
25 KEN ALEX,  
26 Senior Assistant Attorney General  
27 JAMES R. POTTER, State Bar No. 166992  
28 OLIVIA W. KARLIN, State Bar No. 150432  
Deputy Attorneys General  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
Telephone: (213) 897-0473  
Attorneys for Plaintiff